



U.S. Department of Justice

*United States Attorney
District of New Jersey*

RACHAEL A. HONIG
Acting United States Attorney

JASON M. RICHARDSON
Assistant United States Attorney

CAMDEN FEDERAL BUILDING & U.S. COURTHOUSE 856/757-5026
401 Market Street, 4th Floor Fax: 856/605-4910
Post Office Box 2098 Direct Dial: 856/968-4869
Camden New Jersey 08101-2098

August 30, 2021

Honorable Renée Marie Bumb
United States District Judge
Mitchell H. Cohen Federal Courthouse
One John F. Gerry Plaza, Fourth & Cooper Streets
Camden, New Jersey 08101

Re: United States v. Sterling Wheaten
Crim. No. 18-608 (RMB)

Dear Judge Bumb:

Please accept this letter in lieu of a more formal pleading setting forth those questions requested by the United States to be included in the Court's *voir dire*. The United States respectfully requests that the Court ask the jurors as a whole the following questions in addition to the standard *voir dire* conducted by the Court:

General Background

1. An indictment is a document that charges an individual with a crime after having been considered by a federal grand jury. An indictment is the means by which the Government gives him notice of the charges against him and brings him before the Court. An indictment is an accusation, and nothing more. An indictment is not evidence and the jury may give it no weight in arriving at its verdict. Will you accept and apply this rule of law?

2. The indictment in this matter ("the Indictment") charges the Defendant, Sterling Wheaten, with violating an individual's Constitutional Rights and falsification of records in a federal investigation as a police officer with the Atlantic City Police Department. Do you have any reason to believe that the charges in this case that I have just described to you will affect your ability to fairly and impartially evaluate the evidence and apply the law?

Presumption of Innocence and Impartiality

3. The Defendant is presumed innocent. He cannot be convicted unless the jury, unanimously and based solely on the evidence in this case and the law as the Court instructs, decides his guilt has been proven beyond a reasonable doubt. The burden of proving the guilt rests entirely with the Government. The Defendant has no burden of proof at all. Will you accept and apply this rule of law?

4. Can you accept that the Defendant is at this moment presumed to be innocent of any and all crimes charged in the Indictment and that he is presumed to be innocent of these charges throughout the course of the trial?

5. Under the law, a defendant need not testify or offer any evidence on his or her behalf. If a defendant does neither, the jury is not permitted to consider that fact in any way in reaching a decision as to whether a defendant is guilty or not guilty. Will you accept and apply this rule of law?

6. If you are selected to sit as a juror on this case, would you be willing and able to render a verdict based solely on the facts, exhibits and documents in evidence, and the law as the Court will give it to you in its instructions, disregarding any other ideas, notions or beliefs about the law that you may have encountered?

7. The law does not permit you to consider any emotions such as sympathy, prejudice, vengeance, fear, or hostility in reaching your verdict. Can you put these emotions out of your mind when you listen to the evidence in this case and while you are deliberating toward reaching a verdict?

8. The law does not permit you to consider the issue of sentencing or punishment in reaching your verdict. Do you feel that you would be able to deliberate as a juror on the defendant's guilt or non-guilt without knowing what punishment he might receive if he were found guilty?

9. Can you render a verdict, whether guilty or not, without considering the question of punishment?

10. Do you have any beliefs or life experiences that would prevent you from sitting in judgment of another?

11. Do you believe that the fact that someone has been arrested means that the person must be guilty?

12. Would you believe or disbelieve the testimony of a defendant, simply because he has been accused of a crime?

Prior Experience with Legal System and Law Enforcement

13. Have you ever served on a trial jury or a grand jury?

a. If so, please give details of which court.

b. What type of case?

c. Did the jury deliberate to a final verdict?

14. Have you ever had your home, office, or any other premises be the subject of a search and seizure by any federal, state, or local agency or law enforcement department?

15. Have you, any member of your family, close relatives, or friends ever been subjected to service of a grand jury subpoena by any federal, state, or local agency or law enforcement department whatsoever?

16. Have you ever provided information to, been a cooperating informant or witness for, or provided testimony for any federal, state, or local agency or law enforcement department?

17. Have you ever contacted the United States Attorney's Office, County Prosecutor's Office, the police department, or any court, local, county, state or federal law enforcement agency to report a crime?

18. Have you, any member of your family, or any close friend ever been the subject of an investigation by any agency of the United States government, or any state, county, or local government?

19. Have you, any member of your family, or any close friend been arrested or convicted of a crime or offense?

20. Have you, any member of your family, or any close friend ever been a defendant in a suit brought by the federal government or any state, county, or local government?

21. Have you, anyone in your family, or any close friend ever been the victim of a crime or participated in a criminal case (other than a traffic violation) as a victim, a defendant, or a witness where the case went to court?

a. Do you believe that the case was handled appropriately?

b. Was there anything about that experience that would affect your ability to fairly and impartially evaluate the evidence in this case?

22. Do you have any opinions or beliefs concerning the criminal justice system, defendants, criminal defense attorneys or prosecutors that would affect your ability to evaluate the evidence in this case fairly and impartially?

23. Are you or have you ever been an officer or employee of the United States government or any state, county, or local government? If so, would the fact that the United States government is a party to this action in any way influence your judgment in regard to this case?

24. Have you, a family member, or a close friend ever studied or practiced law or worked in a law office?

25. The Defendant and other potential witnesses were law enforcement officers at the time of the acts alleged in the Indictment.

- a. Have you, any member of your family, or any close friend ever been employed by a law enforcement agency?
- b. Would your experience (or that of a relative or friend) cause you to sympathize with the Defendant or potential witnesses?
- c. Would your experience (or that of a relative or friend) cause you to have bias against the Defendant or potential witnesses in this case because the Defendant and some of the potential witnesses were members of law enforcement?

26. Do you have positive or negative feelings that would make it difficult for you to evaluate a police officer's testimony fairly and impartially?

27. In this case, you may hear testimony from current or former law enforcement officers from the Atlantic City Police Department and the FBI. Have you ever had any personal experiences with these agencies, or with any other law enforcement agency? If so, please explain the nature and extent of your personal experiences with that agency. Do you think that your experience with that agency will affect the way you view the evidence in this case?

28. Have you, a family member, or a close friend ever had any negative experiences involving police or been the subject of any adverse action taken by police?

29. Are you, any member of your family, or any close friend affiliated, connected with, or a member of any organization that supports or provides services for law enforcement agencies or officers?

30. Would the fact that the federal government is a party to this action in any way influence your judgment in regard to this case?

31. Have you, anyone in your family, or any close friend ever had any interaction or experience with the federal government or with state or local law enforcement officials that might affect your ability to be fair and impartial in this case?

32. Would the fact that the Defendant in this case was a police officer in any way influence your judgment in regard to this case?

Case Background and Underlying Charges

33. This case involves alleged events occurring in and around the city of Atlantic City, New Jersey. Have you ever lived or worked in Atlantic City?

34. This case involves allegations that the Defendant authored and submitted a false police report in an attempt to cover up an instance of excessive force. Do you have such strong views on the subject of excessive force or police conduct that you could not render a fair verdict in this case?

35. Are you familiar with any newspaper, television, radio, Internet or other forms of news coverage regarding this case?

Civil Rights

36. In recent months, you may have seen or heard media accounts concerning the federal government's involvement in state or local civil rights cases. Do you have any strong feelings or opinions about the federal government's involvement in state or local civil right cases? If so, please explain at side-bar.

37. Do you feel that the federal government goes too far in protecting civil rights?

38. Do you feel that the federal government does not go far enough in protecting civil rights?

39. If the Government fails to prove its case against the Defendant beyond a reasonable doubt, would you have any difficulty returning a not guilty verdict?

Excessive Force

40. This case also involves allegations of violence, specifically, a physical assault where the Defendant, a police officer, allegedly causing his police K-9 to bite a subdued individual and punching the victim on the shoulder several times while the K-9 was attached to the victim's neck.

- a. Will the fact that this case involves violence impact on your ability to fairly and impartially judge the facts in this case?
- b. Have you, any member of your family, or any close friend ever been a victim of a violent crime?
 - i. Has your experience, or the experience of your family member or close friend, of being a victim of a violent crime caused you to have a particular opinion about people charged with committing violent crimes?
 - ii. Will you be able to fairly and impartially judge the facts in this case in spite of your experience, or the experience of your family member or close friend, as a victim of a violent crime?

41. Have you or has a close family member or close friend ever been the victim of excessive force or police brutality?

42. Have you had any encounters with law enforcement that left you with a strong positive or negative opinion of law enforcement? Please explain at side bar.

43. Do you think that law enforcement officers do such a difficult job that it is unfair for their actions to be judged?

44. Do you believe that there are circumstances under which police officers do not have to obey the law like everyone else?

45. Would you have any reluctance to judge the actions of a police officer accused of using excessive force or obstructing justice?

46. Do you understand that even if a person has been arrested, that they still have certain rights—including the right to not have law enforcement officers use excessive physical force against them? Do you have strong feeling about that?

47. Do you think that law enforcement officers should be allowed to use force against a person who either is not a threat or is no longer posing a threat?

48. If the Government proves its case against the Defendant beyond a reasonable doubt, would you have any difficulty returning a guilty verdict because the Defendant was a law enforcement officer?

Personal Circumstances

49. Would you tend to believe someone or not believe someone because of that person's ethnic background, race, sex, religion, occupation, or economic status?

50. Is there any extraordinary personal or business situation, or other distinct hardship, which makes it impossible for you to sit on this jury?

51. Do you have any medical condition that would make it impossible for you to sit on this jury?

52. Do you have any difficulty reading, speaking, or understanding English?

53. Do you think you may know or be familiar with this Defendant or his family or friends?

54. Do you think you may know or be familiar with the attorneys, anyone on the list I read to you, or a fellow juror?

55. Can you think of any reason, even if we have not covered it in these questions, why you would not be able to render a fair and impartial verdict in this case?

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The United States respectfully suggests that further inquiry be conducted at sidebar if the answers to any questions so warrant.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Jason M. Richardson".

JASON M. RICHARDSON
R. DAVID WALK, Jr.
Assistant U.S. Attorney
United States Attorney's Office
District of New Jersey

cc: Louis Barbone, Esq.
Stacey Anne Biancamano, Esq,